

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

FERRING PHARMACEUTICALS INC., )  
FERRING B.V., and FERRING )  
INTERNATIONAL CENTER S.A., )  
                                )  
Plaintiffs,                 )  
                                )  
                                )  
v.                              ) C.A. No. 17-479 (GMS)  
                                )  
SERENITY PHARMACEUTICALS, LLC, )  
REPRISE BIOPHARMACEUTICALS, LLC, )  
and ALLERGAN, INC.,             )  
                                )  
Defendants.                 )

**DEFENDANTS SERENITY AND REPRISE'S MOTION TO DISMISS**

Defendants Serenity Pharmaceuticals, LLC and Reprise Biopharmaceutics, LLC (“Reprise”) (collectively, “Defendants”) respectfully move for: (1) dismissal in its entirety of the Amended Complaint for Declaratory Judgment (the “Amended Complaint”) (D.I. 18), filed on June 30, 2017 by Ferring Pharmaceuticals Inc., Ferring B.V., and Ferring International Center S.A. (collectively, “Plaintiffs”), pursuant to Fed. R. Civ. P. 12(b)(1), for lack of subject-matter jurisdiction; (2) dismissal of the Amended Complaint with respect to Defendant Reprise, the owner of U.S. Patent Nos. 7,405,203, 7,579,321, and 7,799,761, for lack of personal jurisdiction pursuant to Fed. R. Civ. P. 12(b)(2); (3) dismissal of Count V of the Amended Complaint, pursuant to Fed. R. Civ. P. 12(b)(6), for failure to state a claim upon which relief can be granted; and (4) an Order dismissing the Amended Complaint in its entirety under Fed. R. Civ. P. 15(d) for failure to seek leave of Court before filing a supplemental pleading.

Plaintiffs filed their original Complaint on April 28, 2017. (D.I. 1) On June 9, 2017, Defendants moved for: (1) dismissal of the Complaint pursuant to Fed. R. Civ. P. 12(b)(1), for lack of subject-matter jurisdiction; (2) dismissal of the Complaint with respect to Defendant

Reprise for lack of personal jurisdiction pursuant to Fed. R. Civ. P. 12(b)(2); (3) dismissal of Count V of the Complaint, pursuant to Fed. R. Civ. P. 12(b)(6), for failure to state a claim upon which relief can be granted. (D.I. 11) In the alternative, Defendants moved the Court to transfer the case to the Southern District of New York. Thereafter, on June 30, 2017, Plaintiffs filed their Amended Complaint (D.I. 18) and their Answering Brief in response to Defendants' June 9, 2017 Motion (D.I. 19), arguing that the motion to dismiss is moot in light of the Amended Complaint.

The grounds for this motion are fully set forth in Defendants' opening and reply briefs accompanying their Motion to Dismiss, Or In The Alternative, To Transfer, Plaintiffs' Complaint for Declaratory Judgment (*see* D.I. 12 and 23), which are incorporated herein by reference.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

*/s/ Jack B. Blumenfeld*

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July 14, 2017

**CERTIFICATE OF SERVICE**

I hereby certify that on July 14, 2017, copies of the foregoing were caused to be served upon the following in the manner indicated:

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